



ECONOMIC DEVELOPMENT AND REDEVELOPMENT

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March 8, 2010

Douglas J. Wade
U.S. Army Corps of Engineers
Attn: CECW-CE
441 G Street, N.W.
Washington, DC 20314-1000

Re: COE-2010-0007

Dear Mr. Wade,

I am writing in response to the February 9, 2010 Notice in the Federal Register (COE-2010-0007) regarding a proposed Process for Requesting a Variance from Vegetation Standards for Levees and Floodwalls. In response the City of Santa Cruz has the following technical comments.

Page 6365 Policy Guidance Letter – Section 6 Process - The variance process contains no provision for an appeal of a Corps decision. For instance, a local agency is subject to a wide variety of state and federal environmental regulatory agencies which often have different requirements and legal authorities. While the Corps can take action on a variance request pursuant to the Policy Guidance Letter an environmental regulatory agency can legally stop a local agency in whatever action is determined in the variance process. Recognizing the potential for many competing interests in terms of levee vegetation management and the variance process, the Policy Guidance should include an inter-agency review process and a conflict resolution procedure which is binding on all Federal regulatory agencies. Without this additional coordination this policy will simply create further conflict at the local level.

Page 6365 Policy Guidance Letter – Section 9.b. & c. Special Conditions – The following addition should be made to the following section:

“b. The vegetation variance request process does not apply to embankment dams and their appurtenant structures, channels, or shore-line or river-bank protection systems such as revetments or overbuilt engineered levee sections and dunes, and barrier islands.”

“c. Waterside planting berms are allowed only by approved variance, unless designed, installed and/or constructed as part of an authorized PL 84-99 project.

"e. Due to the significant threat to system reliability, ability to flood fight, and observe system response under high water conditions, no vegetation variance involving woody vegetation, as defined in ETL 1110-2-571 shall be granted for the following portions of a levee: The upper third of the river-side (or floodside) slope, the crown, the land-side (or protected-side) slope, or within 15 feet of the land-side (or protected-side) toe (subject to preexisting right-of-way), unless designed, installed and/or constructed as part of an authorized PL 84-99 project.

A general comment, who is responsible for funding the necessary studies to secure a variance for vegetation that was designed and planted by the Corps as part of a PL 84-99 project? The Policy seems to indicate that the sponsor bears all responsibility for the variance costs even though a project was built in conformance with an existing Congressional Authorization and Sponsor/Corps Project Cooperation Agreement.

If you require any further information in regards to these comments please contact me at jhall@cityofsantacruz.com or by phone at (831) 420-5153.

Sincerely,



Joe H. Hall
Project Manager

Cc: Director of Public Work
Operations Manager
Administrative Analysis
Chaney and Associates